

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0782-02
Bill No.: HB 223
Subject: Crimes and Punishment; Criminal Procedure; Judges
Type: Original
Date: April 7, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	\$1,303,472	\$1,501,043	\$1,431,458
Total Estimated Net Effect on General Revenue Fund	\$1,303,472	\$1,501,043	\$1,431,458

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of the Governor** and the **Office of the Attorney General** assume this proposal would have no fiscal impact to their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials of the **State Public Defender (SPD)** stated that State Public Defenders provided representation in an average of 30 death penalty cases over the last four fiscal years. Public Defenders (PDs) are able to provide representation in 3 cases each fiscal year where the client is charged with murder and the death penalty is being sought. Likewise, PDs can provide representation in 18.75 murder cases where the death penalty is not being sought. The average of cost of required experts in a death penalty case is \$20,000 greater than a non-death penalty case. SPD officials assume this proposal would result in a savings of \$1,309,550 in FY04; \$1,614,363 in FY05; and \$1,658,449 in FY06 to the SPD system.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the DOC executes an average of 6 death-row inmates per year. Pursuant to this proposed legislation, these offenders would now be commuted to life imprisonment without parole. At the end of each year thereafter, the DOC would have those additional 6 inmates remaining in the maximum-security population who would have been executed under current law. Cost for this additional confinement would be offset by the execution cost.

The DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- ▶ \$46.08 (FY02 cost) maximum security (level C5) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- ▶ \$7,426 estimated current per-execution cost for a Capital Punishment (CP) offender, with an inflation rate of 3% per each subsequent year.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2004, 2005, and 2006), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

Abolish Death Penalty Assumptions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	46.08	365	16,819
Construction (C4 or C5 \$55,000)			0
Execution Cost Savings	one-time per CP offender		(7,426)
Operating Inflation (3.0%)			1.030
Execution Inflation (3.0%)			1.030
Construction Inflation (3.0%)			1.030

ASSUMPTION (continued)

	End FY Population	Average Population	Execution Offset	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2003	0	(current year which will have no costs incurred)				
FY 2004	6	3	(44,556)	50,457	0	6,078
FY 2005	12	9	(44,556)	151,371	0	113,320
FY 2006	18	15	(44,556)	252,285	0	226,991
FY 2007	24	21	(44,556)	353,199	0	347,380
FY 2008	30	27	(44,556)	454,113	0	474,789
FY 2009	36	33	(44,556)	555,027	0	609,529
FY 2010	42	39	(44,556)	655,941	0	751,926
FY 2011	48	45	(44,556)	756,855	0	902,319
FY 2012	54	51	(44,556)	857,769	0	1,061,059
FY 2013	60	57	(44,556)	958,683	0	1,228,510
Total Ten-Year Fiscal Impact:						5,721,901

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
<u>Savings – State Public Defender (SPD)</u>			
Personal Service (15.25 FTE)	\$503,067	\$618,773	\$634,242
Fringe Benefits	\$203,591	\$250,417	\$256,678
Expense and Equipment	\$102,892	\$127,173	\$130,989
Reduced Expert Testimony	<u>\$500,000</u>	<u>\$618,000</u>	<u>\$636,540</u>
Total <u>Savings</u> – SPD	\$1,309,550	\$1,614,363	\$1,658,449
 <u>Costs - Department of Corrections</u>			
Additional incarcerates	<u>(\$6,078)</u>	<u>(\$113,320)</u>	<u>(\$226,991)</u>
 ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	 <u>\$1,303,472</u>	 <u>\$1,501,043</u>	 <u>\$1,431,458</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2004 (10 Mo.)	 FY 2005	 FY 2006
	 <u>\$0</u>	 <u>\$0</u>	 <u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.


DESCRIPTION

The proposed legislation would repeal the death penalty, remove all statutory references to the death penalty, and commute all death sentences pending as of the effective date of the bill to life sentences without parole.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of the Governor
Office of State Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 7, 2003